



**VIA FACSIMILE and
U.S. Mail**

**State of Tennessee
Department of State**

Division of Elections
312 Eighth Avenue North
9th Floor, William R. Snodgrass Tower
Nashville, Tennessee 37243
Phone: (615) 741-7956 Fax: (615) 741-1278

September 12, 2007

Monice Hagler Tate, Assistant County Attorney
Shelby County
81 Monroe, Suite 200
Memphis, TN 38103

Re: Proposed Charter Amendment on Presidential Preference Primary Ballot

Dear Monice:

Pursuant to Section 5.05(D) of the Shelby County Charter, any proposed charter amendment must be submitted to the voters "at the next regular county election." Based upon your letter, you question whether the Presidential Preference Primary (PPP) would be included in the definition of "next regular county election."

Interestingly, although we commonly refer to a "regular election" or a "general election," the statute does not ever specifically define either phrase. What has been defined in TCA § 2-1-104(a)(7) is the word "election," which means "a general election for which membership in a political party in order to participate therein is not required." TCA § 2-1-104(a)(19) also defines "primary election" as "an election held for a political party for the purpose of allowing members of that party to select a nominee or nominees to appear on the general election ballot."

In Attorney General Opinion No. 82-223 (AGO 82-223), issued on April 21, 1982, the Attorney General examined the history of the definition of "election" and opined that its history "indicates that the Legislature intended to omit primary elections and referenda from the definition of 'election' in the election code." AGO 82-223, a copy of which has been enclosed for your convenience, noted that prior to the 1980 amendment, the statute "defined 'election' to include 'general elections, primary elections, and the submission of questions to the people by ballot.'"

For this reason, I advise that the Shelby County charter does not include the PPP in its direction to place the question of a proposed charter amendment on "next regular county election." Consequently, the election commission would place the proposed charter amendment on the regular August ballot, which includes a regular county election."

If you have further questions regarding the timing on which to place a question on the ballot, please contact me. I hope that this information proves helpful.

Sincerely,

Brook K. Thompson
Coordinator of Elections

1982 Tenn. AG LEXIS 319
82-223
April 21, 1982
OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF TENNESSEE

Request By:

WILLIAM M. LEECH, JR., Attorney General (WILLIAM B. HUBBARD, Chief Deputy Attorney General; WILLIAM P. SIZER, Assistant Attorney General)

Opinion

Mr. Charles J. Crass
Harriman City Attorney
Old Court Square
Kingston, Tennessee 37763

You have requested an opinion on the following question:

QUESTION

In § 8 of the Harriman City Charter regarding the filling of vacancies on the city council, what is the meaning of the phrase "next general election?"

OPINION

The phrase "next general election" refers to any election in which all registered voters in the city would be eligible to participate, except for referenda and primary elections.

ANALYSIS

Section 8 of the Harriman City Charter provides that a person appointed to fill a vacancy on the city council shall hold office "until the next general election." You question whether this refers only to municipal elections or to all "general elections."

"Election" is defined at T.C.A. § 2-1-104(6) as "a general election for which membership in a political party in order to participate therein is not required."

This subsection was amended in 1980 to replace the former provision, which defined "election" to include "general elections, primary elections, and the submission of questions to the people by ballot." This history indicates that the Legislature intended to omit primary elections and referenda from the definition of "election" in the election code.

This issue is analyzed in the context of filling vacancies on a county commission in the opinion of this office dated July 29, 1981 [(81-433), to Robert T. Rochelle].

Of course, the definitions in the election code do not control a question arising from a city charter. In the latter context, the term "general election" would certainly include a municipal election. To argue otherwise would be contrary to common sense.

It is the opinion of this office, however, that the phrase "general **election**" in the Harriman City Charter should be construed also to include other general elections as **defined** in T.C.A. § **2-1-104(6)**.

If you have further questions or comments about this matter, please feel free to contact us.